

1954

Book Review. Honnold, John, Cases and Materials on the Law of Sales and Sales Financing

Kenneth B. Hughes

Indiana University School of Law

Follow this and additional works at: <http://www.repository.law.indiana.edu/facpub>

 Part of the [Commercial Law Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Hughes, Kenneth B., "Book Review. Honnold, John, Cases and Materials on the Law of Sales and Sales Financing" (1954). *Articles by Maurer Faculty*. Paper 2002.

<http://www.repository.law.indiana.edu/facpub/2002>

This Book Review is brought to you for free and open access by the Faculty Scholarship at Digital Repository @ Maurer Law. It has been accepted for inclusion in Articles by Maurer Faculty by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.

are detailed forms of instructions to the jury which, to this writer, seem to cover most of the situations which arise at the trial of automobile cases.

BERNARD A. MARVIN*

CASES AND MATERIALS ON THE LAW OF SALES AND SALES FINANCING. By *John Honnold*. New York: Foundation Press, 1954. Pp. xxxiv, 679. \$8.50.

Professor Honnold's recent casebook entitled *Cases and Materials on the Law of Sales and Sales Financing* clearly demonstrates that the course in Sales can be made to yield fresh insights into legal problems consequent to the distribution of goods. To accomplish this, the author employs an impressive and carefully selected array of principal cases, case-cuttings, commentary, problems, business forms and statutory materials. He has integrated these raw materials with considerable skill, and presents them in imaginative and useful sequence.

While the dominant theme of the book may be the Distribution of Goods, and its major effort directed to the critical examination of rules of law and their application in a commercial setting, Professor Honnold carries us far beyond these conventional frontiers. Fully one-half of the book is devoted to current legal problems generated by the immensity and increasing complexity of the present day marketing process. As might be anticipated, the history of Sales gets little play in a book which has such an essentially forward thrust about it. Its constant preoccupation is with the contemporary commercial transaction. High priorities thereby attach to such matters as Forward Contracts for the purchase of goods, effective arrangements for secured credit, and the interplay of those Statutes which provide for specified types of security interests. Throughout its treatment of these and related materials, heavy emphasis is laid upon the counseling role of the commercial lawyer. As prospective legal advisors to members of the business community, students are constantly alerted to broad opportunities for the practice of "preventive law" at primary activity levels. This major shift in emphasis of the commercial lawyer's role in the distributive process is a significant contribution.

The book is within the limits of manageable size. It contains no more than 92 principal cases, including some 53 on Sales and 39 on Financing. But the book fairly bristles with case excerpts, commentary, and problems which require independent thought and a hard reading of relevant statutory material. It is a relief to find all of these latter materials printed in the same wonderfully legible typeface employed for the

* Member of the Massachusetts Bar and the Federal Bar.

principal cases. This fact, plus the excellent scholarship of the whole undertaking, helps the author effect "a shift from eyestrain to mental effort."

The first half of the book is devoted to sales, and the second half to security transactions. The sales material falls into two subdivisions: the first deals with the "contract", including the Statute of Frauds, warranties, and price mechanisms; the second is concerned with power over the goods, with risk of loss receiving extensive attention because of the importance of insurance and of carrier liability. Also at this point Remedies, and the sound considerations which would indicate a choice between them, are accorded more than 100 pages of treatment.

Sales Financing, the final half of the book, receives more intensive development than is generally accorded. It does more than parade before us the conventional security devices of the chattel mortgage, conditional sale, consignment, warehouse and trust receipts, assignment of receivables, and factor liens. The worth and relative advantages of these devices are rigorously examined under the impact of bankruptcy and current legislative protection of borrowers. In this area of sales financing, particularly, the student is brought to grips with the decisive role played by legislation in the shaping of business practice, and in the practical adjustment of commercial controversies. Here, the author's lavish use of business forms and statutory materials provides the student with a sense of direction, and an increased awareness of what is going on in places other than the appellate courts of the nation. In brief, the author removes any lingering uncertainty from the proposition that commercial law can and must be studied from materials vastly broader than a mere sampling of opinions of the Judges.

No effort is made to "integrate" the law of negotiable instruments as part of *Sales and Sales Financing*. Of course, certain points of contact between the two subjects are inescapable. In those limited situations, ample materials are provided to clarify the function of commercial paper which channels the flow of funds, or which may control both shipment and payment in a given case. Reservation of the law of negotiable instruments for a further course permits undiverted concentration upon problems incident to the distribution of goods. This, it would appear, outweighs any doubtful advantage from a full "integration", which on close inspection is more often illusory than real.

On the debit side, there may be justified objection that the book contains fewer principal cases than good practice requires, and that some of these could stand a little more editing. See, for example, *Albert & Son v. Armstrong Rubber Co.*, Pp. 248 to 257; and *Glantz v. Gardner*, Pp. 357 to 364. Inclusion of the materials on the Statute of Frauds is also arguable as unnecessary duplication of work covered in the contracts course. These are mere matters of opinion, and if taken as

valid, detract not at all from the over-all excellence and usefulness of Professor Honnold's book.

The peculiar merit of *Sales and Sales Financing* extends far beyond its format and organization. More of a "course" book than a case book in the traditional sense, it is an impressive demonstration of the effectiveness of the case-problem-business practices approach. It is our confident prediction that this book will find increasing favor with teachers and students alike, as they consider this complex and constantly expanding area of legal concern.

KENNETH B. HUGHES*

HOW TO WIN LAWSUITS BEFORE JURIES. By *Lewis W. Lake*. Prentice-Hall, Inc., New York, 1954. Pp. xii, 303. \$4.65.

To one who has had no experience before the Bar in the trial of jury cases one may conclude from reading, "How To Win Lawsuits Before Juries" that the entire procedure, from the selection of the jury to the final argument is one fraught with artful deceit on the part of his attorney-opponent. To one who has had such experience, reading this book takes on the tenor of seeing one's observations and experiences spawn into print.

If for no other reason then, Lewis W. Lake's book becomes for the aspiring trial attorney a friendly discussion with the author involving the gamut of trial from opening to argument; and the pitfalls and techniques of each phase thereof. The information discussed in this volume was gleaned from actual experience, most of which was probably compiled first hand by the author himself.

If the reader will keep in mind, that the suggestions and counsel given in this book are not ends in themselves, and avoid the conclusion that a trial before a jury is all tricks, artful dodges and ensnaring mechanisms, then, and only then, will he be in the proper perspective to evaluate its teachings and profit by its message. Do not be placed in the same position as the medical student who, after reading his text on Pathology concluded that the entire world was diseased. Such is the conclusion to avoid here. The best start toward winning a lawsuit is having a "Good Case." If this is kept in mind, then this book will be a helpful guide in putting your best case forward, as it were.

Although the author overemphasizes certain phases of the trial of a lawsuit before a jury, his observations contained in his Chapters Nine through Fifteen on Cross-examination are very terse and accurate commentaries on that particular part of the trial of a law case. Many law-

* Professor of Law, Boston University.